

Remarks

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-22 are currently pending. Claim 15 has been amended. The objection to claim 15 based on a grammatical informality has been addressed. No new matter has been added.

Drawings

Figures 1A and 1B were objected to for lack of a "Prior Art" legend, and the drawings were also objected to under 37 C.F.R. § 1.83(a) on the grounds that the "driving means" recited in the claims is not shown.

To expedite prosecution, replacement drawings of Figures 1A, 1B and 2A are submitted herewith. Figures 1A and 1B now both include a "Prior Art" legend, and Figure 2A includes a schematic illustration of driving means, based at least in part on the recitation of driving means in the claims. The corresponding section of the specification has been revised accordingly. No new matter has been added. Accordingly, withdrawal of the objection to the drawings is respectfully requested.

Claim Rejections – 35 USC § 102

The Examiner rejected claims 1 and 8 under 35 USC §102(b) as being anticipated by admitted prior art. Specifically, the Examiner referred to Background section of the present application.

Contrary to the Examiner's assertion, the content of the Background section of the present application does not anticipate either claim 1 or claim 8 under 35 USC § 102(b), regardless of any admission that may or may not have been made therein. This is clear upon a reading of the patent statute, reproduced below:

35 U.S.C. 102

**Conditions for patentability; novelty and loss of
right to patent.**

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, **more than one year prior to the date of the application for patent** in the United States (Emphasis added)

The Applicant respectfully traverses the Examiner's assertion because nothing in the Background of the present application mentions any date or time with respect to the filing date of the present application sufficient to determine whether the "**more than one year**" requirement of the statute is satisfied. The Background section of the present application simply is not dispositive on the one year requirement of § 102(b). As a result, it is impossible for the Background section of the present invention to anticipate any of the claims under § 102(b). If the Examiner disagrees with this traversal, the Examiner is kindly requested to explain how the "**more than one year**" requirement of the statute is satisfied by the Background section of the application. Absent such an explanation, the rejection should be withdrawn.

Claim Rejections - 35 USC § 103

Admitted Prior Art v. Wieloch

The Examiner rejected claims 2-5, and 9-12 under 35 USC 103(a) as being unpatentable over admitted prior art in view of Wieloch (5,764,023).

Contrary to the Examiner's assertion, the patent to Wieloch does not disclose:

a control module having a read only memory (ROM) for storing a preset calibration parameter and using the stored calibration parameter to perform compensation calibration for the captured image (Col 7 Lines 52-66)

as stated by the Examiner in the rejection. This statement is false on its face since the patent to Wieloch nowhere mentions anything about a captured image. In fact, a text search of US Patent No. 5,764,023 as obtained from the PTO website was performed, and the words “capture”, “captured”, and “image” were not found to exist in the patent.

Furthermore, the Examiner’s statement that:

Admitted prior art & Wieloch are combinable because they are from applications, which require control options

is simply too vague to establish any motivation to combine the alleged admitted prior art with the teachings of the patent to Wieloch. It should be noted that the present invention relates to an image scanning system and method for a scanner, whereas the patent to Wieloch relates to the field of motor controllers for driving alternating current motors. The applicant respectfully traverses the assertion that one of ordinary skill in the art of image scanning systems would turn to the field of ac motors for motivation to arrive at the claimed invention, or specifically to the field of ac motors to arrive a method for scanning an image to determine how to store a “*calibration parameter to perform compensation and calibration for the captured image*” as recited, for example, in claim 2. In other words, it appears that any calibration discussed in the patent to Wieloch has nothing to do with the calibration of an image captured by a scanner, and in any event, the Examiner did not establish that calibration of an ac motor as disclosed in Wieloch is the same and/or analogous to calibration of a captured image as recited in the present claims. Thus, contrary to the Examiner’s assertion, the patent to Wieloch appears to be directed to subject matter, namely ac motors, that is nonanalogous to the subject matter of the claimed invention, namely image scanning systems. The Examiner is kindly reminded that:

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art, and all the teachings in the prior art must be considered *to the extent that they are in analogous arts*. (Emphasis added). MPEP § 2143.01

Therefore, since the patent to Wieloch appears to disclose subject matter that is nonanalogous to the present invention, one having skill in the art of image scanning systems would not be motivated to combine an image scanning system with the ac motor of Wieloch to arrive at a combination that performs compensation and calibration of a captured image. As a result, the patent to Wieloch cannot support a rejection under § 103, so the rejection should be withdrawn.

Admitted Prior Art v. Spitz

The Examiner rejected claims 15 and 16 as being unpatentable over admitted prior art in view of Spitz (5,939,697).

Contrary to the Examiner's assertion, the patent to Spitz does not disclose:

expressly a) judging if a control module having a calibration parameter is required; b) providing a scanning object if the outcome of the step a) is positive; wherein the following steps are performed when the outcome of step a) is negative: a1) performing pre-scanning and calculating calibration parameter; and a2) storing the calibration parameter in the control module (Col 8 Lines 19-28)

as the Examiner recited in the rejection. To illustrate that the assertion is false, the cited passage of Spitz at Col 8 Lines 19-28 is reproduced below:

A key feature of the present invention is to provide calibration parameter groups, comprised of a plurality of calibration parameter values. The calibration parameter groups may be retrieved as needed and applied to calibrate the computing and evaluation system 31, as well as one or more selected and operatively coupled scanner units 20a and/or scanning apparatus 20, to accurately scan and evaluate indicia. Again, a discussion of calibration parameter groups will be provided when referring to FIGS. 6A, 6B, and 6C.

Thus, contrary to the Examiner's assertion, Spitz does not disclose, for example, *"judging if a calibration parameter is required and obtaining a calibration parameter if required"* as recited in claim 15 as amended herein to correct a typographical error,

among other elements, including the claimed invention as a whole. It is therefore believed that the rejection should be withdrawn.

Admitted Prior Art & Spitz v. Wieloch

As discussed, above, since the patent to Wieloch appears to disclose subject matter that is nonanalogous to the present invention, one having skill in the art of image scanning systems would not be motivated to combine an image scanning system with the ac motor of Wieloch to arrive at a combination that performs compensation and calibration of a capture image. As a result, the patent to Wieloch cannot support a rejection under § 103, so the rejection should be withdrawn.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

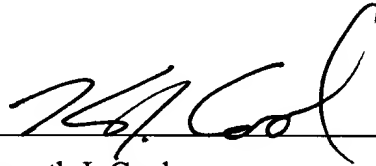
Invitation for a Telephone Interview

The Examiner is invited to call the undersigned attorney, Kenneth J. Cool, at (720) 227-9445 if there remains any issue with allowance.

Respectfully submitted,

ATTORNEY FOR ASSIGNEE

Date: 8-24-05

A handwritten signature in black ink, appearing to read "KJ Cool", is written over a horizontal line.

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